IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 9TH MARCH 2007 / 18TH PHALGUNA 1928

WP(C).No. 7118 of 2007(V)

PETITIONER:

P.S.ANILKUMAR, MINI BHAVAN,
KONATHU KULANGARA, PADAYANI ROAD,
VATTIYOORKAVU P.O., THIRUVANANTHAPURAM.

BY ADV. SRI.BABU JOSEPH KURUVATHAZHA

RESPONDENTS:

1. **THIRUVANANTHAPURAM REGIONAL CO-OPERATIVE MILK PRODUCERS' UNION LTD(MILMA), KSHEERA BHAVAN, PATTOM, THIRUVANANTHAPURAM, REP. BY ITS MANAGING DIRECTOR.**

2. **MANAGING DIRECTOR, THIRUVANANTHAPURAM REGIONAL CO-OPERATIVE MILK PRODUCERS'UNION LTD(MILMA), KSHEERA BHAVAN, PATTOM, THIRUVANANTHAPURAM.**

3. **CHANDRA BABU, JUNIOR TECHNICIAN GRADE II(ELECTRICAL), THIRUVANANTHAPURAM REGIONAL CO-OPERATIVE MILK PRODUCERS' UNION LTD (MILMA), KSHEERA BHAVAN, PATTOM, THIRUVANANTHAPURAM.**

4. **REGISTRAR OF CO-OPERATIVE SOCIEITIES, THIRUVANANTHAPURAM.**

BY GOVT.PLEADER SRI.P.K.RAVIKRISHNAN
BY ADV: SRI. B.S.KRISHNAN SC, MILMA
BY ADV:SRI. K.ANAND

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

Ext.P1: True copy of the Notification No.TRU/PER/1/2005 dated 11-5-2005 published by the 2nd respondent on behalf of the 1st respondent

Ext.P2: True copy of the relevant portion of the proceeding dated 8-3-2006 of the 1st respondent

Ext.P3: True copy of the proceedings bearing No.TRU/PER/21/2007 dated 22-01-2007 issued by the 2nd respondent

Ext.P4: True copy of the petition (except Exhibits marked therein) dated 14-02-2007 submitted by the petitioner before the 4th respondent

//True copy//

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S.SIRI JAGAN .J

W.P (C) No. 7118 of 2007

Dated this the 9th day of March 2007

JUDGMENT

The petitioner is an aspirant for the post of Technician Gr.II (Electrical) in the 1st respondent Society. He submits that as per Ext.P2 select list he was the 5th rank holder. According to him five vacancies to the post of Technician Gr.II (Electrical) were notified by Ext.P1 notification out of which one vacancy was earmarked for SC/ST candidate. Those five vacancies were duly filled up by appointing the first four candidates in the merit list and one candidate from the reservation quota. Petitioner points out that in Ext.P1 notification it has specifically stated that *" vacancies arising if any during the validity of the selection list will be filled up with candidates in the selection list"*. The petitioner contends that subsequently there arose a vacancy in the post of Technician Gr. II (Electrical) and being the fifth rank holder he is entitled to be appointed to that post from the select list which the 1st respondent refuses to do . Therefore he has filed this writ petition seeking the following reliefs:-

> *i) declare that the petitioner is entitled to be appointed against the vacancy of Technician Gr.II (Electrical) against the 6th vacancy arises during the*

validity period of Ext.P2 ranked list on the basis of his assignment of rank at Sl.No.5 in Ext.P2 ranked list and the appointment of the 3rd respondent outside Ext.P2 ranked is illegal, void and inoperative

ii) issue a writ of mandamus or any other appropriate writ, order or direction commanding the 4th respondent to direct the 1st and 2nd respondents to appoint the petitioner as Technician Grade -II (Electrical) by replacing the 3rd respondent who is not included in Ext.P2 ranked list with effect from the date on which the 3rd respondent was appointed with all consequential benefits

iii) Issue a writ of mandamus or any other appropriate writ, order or direction commanding the 4th respondent to cancel the appointment of made as per Ext.P3 and to restrain the respondents 1 and 2 from proceedings further in pursuance to Ext.P3 for regularising the provisional appointment of the 3rd respondent in the permanent vacancy mentioned in Ext.P3.

iv) Issue a writ of mandamus or any other appropriate writ, order or direction commanding the 4th respondent to consider and dispose of Ext.P4 petition forthwith at any rate within a time-frame that may be fixed by this Hon'ble Court

vi) issue any such other writ order or direction which may deem fit, in the facts and circumstances of the case.

2. I have heard both sides . I find that in respect of the said claims of the petitioner he has invoked the jurisdiction of the Registrar of Co-operative Societies by filing Ext.P4 under Rule 176 of the Kerala Co-

operative Societies Act and Rules . In the said circumstances it is for the petitioner to pursue Ext.P4 to its legal conclusion . Therefore I direct the 4th respondent Registrar of Co-operative Societies to consider and pass orders on Ext. P4 as expeditiously as possible at any rate within six weeks from the date of receipt of a copy of this judgment. The petitioner submits that the first respondent society has already taken a decision to appoint the 3rd respondent to the vacancy. The counsel for the 1st respondent submits that the decision has already been cancelled. Whatever that be, before passing final orders the 4th respondent shall hear the petitioner, the 1st respondent and the 3rd respondent.

3. The writ petition is disposed of above.

S.SIRI JAGAN .JUDGE

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